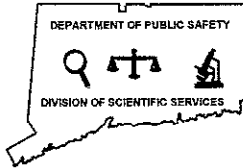




STATE OF CONNECTICUT



DEPARTMENT OF PUBLIC SAFETY  
OFFICE OF THE COMMISSIONER

John A. Danaher III  
Commissioner

Lieutenant Edwin S. Henion  
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Rep. Kevin Ryan, Co-Chairman  
Sen. Edith G. Prague, Co-Chairman  
Labor and Public Employees Committee  
Legislative Office Building  
Hartford, CT 06106

February 24, 2009

**HB 6333 AN ACT CONCERNING THE COLLECTION OF EMPLOYEE DNA**

***The Department of Public Safety supports this bill and suggests accompanying statutory changes providing procedural protections for employees.***

This proposed bill would create an exception to the statutory bar against an employer requiring genetic information from an employee as set forth in CGS 46a-60(11).

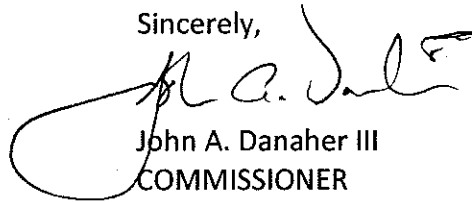
The proposed bill would allow state or local law enforcement agencies, the Department of Public Safety and its Division of Scientific Services to request and require employees to provide genetic information from employees for the purpose of detecting contamination of samples examined by the Division of Scientific Services. It is sometimes unavoidable that evidence collected in a criminal investigation is contaminated by the DNA of law enforcement employees investigating crimes. The collection of DNA samples from investigative personnel to detect contamination of evidence collected in criminal investigations would save precious time and resources in that the Division of Scientific Services would be able to establish that unknown DNA (from, for example, a stray hair) is not from an unknown suspect but rather from an unintentional contamination by a law enforcement employee in the course of the investigation. The public safety value of this bill is obvious.

While the wording of the proposed bill clearly outlines that these samples will be used solely for the detection of contamination of crime scene samples, enactment of this exception to CGS 46a-60(11) should be accompanied by appropriate statutory language setting forth procedural protections for the employees. The Department of Public Safety has drafted suggested statutory changes that are attached to this testimony. Under the proposed language of these changes, the DNA samples of the employees would not be entered into the

DNA data bank (which contains DNA of criminals). These additional statutory changes will make it clear that the employee samples are different than the Convicted Felon samples and that the employee samples will not be associated with a general search of the CODIS Data Bank. Instead, these samples will be maintained in a separate data bank in the laboratory. A statutory procedure for entering the data and assigning it a unique designation that does not identify the employee is included. A procedure for the employee to request expungement upon retirement or otherwise leaving employment is also included.

The existing statutory protocols for DNA samples taken from convicted felons include the safeguards of the DNA Bank Oversight Committee. This Committee consists of the Chief State's Attorney, the Attorney General, the Commissioner of Public Safety, the Commissioner of Corrections and/or their designees. This panel has statutory authority to take such action as necessary to assure the integrity of the data bank, including the destruction of inappropriately obtained samples and the purging of all records and identifiable information pertaining to the persons from whom such inappropriately obtained samples were collected. The attached language would extend the Committee's oversight responsibilities to include the DNA samples of employees obtained pursuant to CGS 46a-60(11) and stored separately pursuant to Sec. 54-102i (c).

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Danaher III", is written over the printed name and title.

John A. Danaher III

COMMISSIONER

Department of Public Safety

**Sec. 54-102i. Procedure for conducting DNA analysis of blood or other biological sample.** (a) Whether or not the results of an analysis are to be included in the data bank, the Division of Scientific Services within the Department of Public Safety shall conduct the DNA analysis in accordance with procedures adopted by the division to determine identification characteristics specific to the individual whose blood or other biological sample is being analyzed. Such procedures shall conform to nationally recognized and accepted standards for DNA analysis. The Commissioner of Public Safety or the commissioner's designee shall complete and maintain on file a form indicating the name of the person whose sample is to be analyzed, the date and by whom the sample was received and examined, and a statement that the seal on the tube or container had not been broken or otherwise tampered with. The remainder of a sample submitted for analysis and inclusion in the data bank pursuant to section 54-102g may be divided, labeled as provided for the original sample, and securely stored by the division in accordance with specific procedures set forth in regulations adopted by the Department of Public Safety in accordance with the provisions of chapter 54 to ensure the integrity and confidentiality of the samples. All or part of the remainder of that sample may be used only (1) to create a statistical data base provided no identifying information on the individual whose sample is being analyzed is included, or (2) for retesting by the division to validate or update the original analysis.

(b) A report of the results of a DNA analysis conducted by the division as authorized, including the profile and identifying information, shall be made and maintained at the division. A certificate and the results of the analysis shall be admissible in any court as evidence of the facts therein stated. Except as specifically provided in this section and section 54-102j, the results of the analysis shall be securely stored and shall remain confidential.

(c) Any employee samples obtained pursuant to CGS 46a-60(11) shall not be entered into the DNA data bank. These samples shall be separately entered into the Forensic Laboratory LIMS (Laboratory Information Management System) and assigned a unique designation which does not identify the employee. No other identifying information of the contributor shall be entered into this system. Information linking identity with the unique designation assigned the sample shall be separately stored in a secure location accessible only by the Commissioner of Public Safety or his designee. The samples may be processed and the generated DNA profiles used to detect contamination from forensic DNA profiles, but the employee samples shall not be used in any general search of the CODIS Data Bank

**Sec. 54-102l. Expungement of DNA data bank records upon reversal and dismissal of conviction.** A person whose DNA profile has been included in the data bank pursuant to sections 54-102g to 54-102k, inclusive, may request expungement on the grounds that the criminal conviction on which the authority for including his DNA profile was based has been reversed and the case dismissed. The State Police Forensic Science Laboratory shall purge all records and identifiable information in the data bank pertaining to the person and destroy all samples from the person upon receipt of (1) a written request for expungement pursuant to this section and (2) a certified copy of the court order reversing and dismissing the conviction. An employee of a state or local law enforcement agency who has provided genetic information pursuant to CGS 46a-60(11), may request

expungement by written request upon retirement or otherwise leaving employment with the law enforcement agency. The State Police Forensic Science Laboratory and the Commissioner of Public Safety shall purge all records and identifiable information pertaining to the employee and destroy all samples from the employee upon such verified request.

**Sec. 54-102m. DNA Data Bank Oversight Panel.** (a) There is established a DNA Data Bank Oversight Panel composed of the Chief State's Attorney, the Attorney General, the Commissioner of Public Safety and the Commissioner of Correction, or their designees. The Chief State's Attorney shall serve as chairperson of the panel and shall coordinate the agencies responsible for the implementation and maintenance of the DNA data bank established pursuant to section 54-102j.

(b) The panel shall take such action as necessary to assure the integrity of the data bank including the destruction of inappropriately obtained samples and the purging of all records and identifiable information pertaining to the persons from whom such inappropriately obtained samples were collected. The responsibilities of the panel shall include oversight with regard to DNA samples of employees obtained pursuant to CGS 46a-60(11) and stored separately in accordance with Sec. 54-102i.

(c) The panel shall meet on a quarterly basis and shall maintain records of its meetings. Such records shall be retained by the chairperson. The meetings and records of the panel shall be subject to the provisions of the Freedom of Information Act, as defined in section 1-200, except that discussions and records of personally identifiable DNA information contained in the data bank shall be confidential and not subject to disclosure pursuant to the Freedom of Information Act.